

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EVONNA MATHIS,

Plaintiff,

v.

UNITED STATES MARSHAL SERVICE,
DEPARTMENT OF JUSTICE CENTER, and
UNITED STATES ATTORNEY GENERAL,

Defendants.

Case No. 1:20-cv-711

HON. JANET T. NEFF

ORDER

This is a civil action filed by a *pro se* litigant. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (ECF No. 6) on August 13, 2020, recommending that Plaintiff's Complaint be dismissed with prejudice for failure to state a claim and that the Court assess the \$505.00 appellate filing fee. On August 31, 2020, Plaintiff filed a First Amended Complaint (ECF No. 10). On September 17, 2020, the Magistrate Judge issued a Report and Recommendation (ECF No. 14) recommending that Plaintiff's First Amended Complaint be dismissed with prejudice; the motion to seal (ECF No. 11) be dismissed as moot; Plaintiff's Complaints in Case Nos. 1:20-cv-837, 1:20-cv-838, 1:20-cv-866 and 1:20-cv-867 be dismissed with prejudice; the Court consider limiting or precluding Plaintiff from proceeding *in forma pauperis* in any future case in this Court; and that the Court assess the \$505.00 appellate

filing fee. The Report and Recommendation was duly served on Plaintiff.¹ No objections have been filed. *See* 28 U.S.C. § 636(b)(1).

Having considered the submissions in these cases, the Court concludes that continuing to allow Plaintiff the privilege of proceeding *in forma pauperis* in future lawsuits does not promote the use of Court resources in the interest of justice. *See generally In re McDonald*, 489 U.S. 180 (1989); *Maxberry v. S.E.C.*, 879 F.2d 222, 224 (6th Cir. 1989). The Sixth Circuit has repeatedly recognized that a district court may properly deny a vexatious litigant permission to proceed *in forma pauperis* where a litigant has demonstrated a “history of unsubstantial and vexatious litigation [amounting to] an abuse of the permission granted to him to proceed as a pauper in good faith under 28 U.S.C. § 1915(d).” *Atchison v. Farrell*, 230 F.3d 1357, at *2 (6th Cir. Sept. 15, 2000) (quoting *Maxberry*, 879 F.2d at 224). *See, e.g., Boles v. Matthews*, 173 F.3d 854, at *3 (6th Cir. 1999); *Robinson v. Giavasis*, 110 F.3d 64 (6th Cir. 1997); *Reneer v. Sewell*, 975 F.2d 258, 260-61 (6th Cir. 1992). As set forth more fully in the Report and Recommendation, Plaintiff has a demonstrated history of filing unsubstantial and vexatious litigation, justifying this prospective restriction. Accordingly, in the future, Plaintiff will not be permitted to file another action without payment of the full filing fee.

Therefore:

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 6) is DISMISSED as moot.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 14) is APPROVED and ADOPTED as the Opinion of the Court, and Plaintiff’s First Amended

¹ Plaintiff is the only party that has appeared in this case at this time.

Complaint (ECF No. 10) is DISMISSED WITH PREJUDICE for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Plaintiff's Motion to seal case (ECF No. 11) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff is PROHIBITED from filing another action in this Court without payment of the full filing fee.

IT IS FURTHER ORDERED, consistent with the Magistrate Judge's recommendation, that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of the Judgment would not be taken in good faith.

A Judgment will be entered consistent with this Order.

Dated: October 7, 2020

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge